

# **AGREEMENT BETWEEN THE REPUBLIC OF LEBANON AND THE REPUBLIC OF AZERBAIJAN ON THE RECIPROCAL ENCOURAGEMENT AND PROTECTION OF INVESTMENTS**

The Government of the Republic of Lebanon and the Government of the Republic of Azerbaijan, hereinafter referred to as the Contracting Parties;

Desiring to promote greater economic cooperation between them, particularly with respect to investments by investors of one Contracting Party in the territory of the other Contracting Party;

Recognizing that agreement upon the treatment to be accorded to such investments will stimulate the flow of capital and technology and the economic development of the Contracting Parties;

Agreeing that fair and equitable treatment of investment is desirable in order to maintain a stable framework for investment and maximum effective utilization of economic resources;

Have agreed on the following:

## **Article 1. Definitions**

For the purpose of this Agreement:

1. The term "investment" in conformity with the hosting Contracting Party's Laws and Regulations, shall include every kind of asset in particular, but not exclusively:

(i) Shares, stocks or any other form of participation in companies,

(ii) Returns reinvested, claims to money or any other rights to legitimate performance having financial value related to an investment,

(iii) Movable and immovable property, as well as any other rights in rem such as mortgages, liens and pledges,

(iv) Industrial and intellectual property rights such as copyrights, patents, licenses, industrial designs, technical processes, as well as trademarks, "goodwill" and "Know-how"

(e) Business concessions conferred by law, by contract or by decision of the Executive Authority according to law, including concessions to search for, cultivate, extract or exploit natural resources in the territory of each Contracting Party as defined hereafter.

Any alteration of the form in which assets are invested or reinvested shall not affect their character as investment. 2. The term "investor" refers with regards of either Contracting Party to:

a) Natural persons who, according to the Law of that Contracting Party, are considered to be its nationals,

b) Corporations, firms or business associations and other similar organizations incorporated or constituted under the Law in force of either Contracting Party and having their headquarters in the territory of that Contracting Party.

3. The term "returns" means the amounts yielded by an investment and includes in particular, though not exclusively, profit, interest dividends, capital gains, royalties, management and technical assistance or other fees, irrespective of the form in which the return is paid.

4. The term "territory" means:

In respect to the Republic of Azerbaijan: the territory of the Republic of Azerbaijan, including internal waters of the Republic of Azerbaijan, the Caspian Sea (Lake) sector belonging to the Republic of Azerbaijan, the air space above the Republic of

Azerbaijan within which the sovereign rights of the Republic of Azerbaijan may be implemented with respect to subsoil, sea bed, continental shelf and natural resources and any area which has been or may hereinafter be determined in accordance with international law and the legislation of the Republic of Azerbaijan; in respect to the Republic of Lebanon: the territory of the Republic of Lebanon, including the territorial sea and the economic exclusive zone as well as the continental shelf that extends outside the limits of the territorial waters over which the State concerned exercises, in accordance with internal and international law, sovereignty, sovereign rights and jurisdiction

## **Article 2. Promotion and Protection of Investment**

1. Each Contracting Party shall encourage and create favourable conditions for investments of the investors of the other Contracting Party and admits such investments in accordance with its laws and regulations.
2. Each Contracting Party shall ensure fair and equitable treatment within its territory of the Investments of the other Contracting Party. Each Contracting Party shall accord to these investments, treatment no less favourable than that accorded in similar situations to investments of its investors or to investments of investors of any third country, whichever is the most favourable.
3. Subject to the laws and regulations of the parties relating to the entry, sojourn and employment of aliens;
  - a) Nationals of either Contracting Party shall be permitted to enter and remain in the territory of the other Contracting Party for purposes of establishing, developing, administering or advising on the operation of an investment to which they, or an investor of the first Contracting Party that employs them, have committed or are in the process of committing a substantial amount of capital or other resources,
  - b) Companies that are legally constituted under the applicable laws and regulations of one Contracting Party, and established on investments of investors of the other Contracting Party, shall be permitted to engage managerial staff and technical personnel possessing the necessary qualification and experience of their choice, regardless of nationality.
4. The most favoured nation treatment shall not be construed so as to oblige a Contracting Party to extend to the investors and investments of the other Contracting Party the advantages resulting from any existing or future customs or economic union, a free trade area or regional economic organization, to which either of the Contracting Parties is or becomes a member, or in the case of Lebanon the treatment granted to investors who are nationals of Arab countries. Nor shall such treatment relate to any advantage which either Contracting Party accords to investors of a third State by virtue of a double taxation agreement or other agreements on a reciprocal basis regarding tax matters.

## **Article 3. Expropriation and Compensation**

1. Investments shall not be expropriated, nationalized or subject directly or indirectly to measures of similar effects except for a public purpose, in a non-discriminatory manner, upon payment of prompt, adequate and effective compensation, and in accordance with due process of law and the general principles of treatment provided for in Article 2 of this Agreement.
2. Compensation should be adequate to the market value of the expropriated investment before the expropriation action was taken or became publicly known. Compensation should be paid without delay, shall carry the usual bank interest until the time of payment and be freely transferable as described in paragraph 2 Article 4. The legality of any such expropriation, nationalization or comparable measure and the amount of compensation shall be subject to review by due process of law.
3. Investors of either Contracting Party whose investments suffer losses due to a war or any other armed conflict, revolution, state of emergency or rebellion or other similar events in the territory of the other Contracting party shall be accorded by such other Party treatment no less favourable than that accorded to its own investors or to investors of any third country, whichever is the most favourable treatment, as regards any measures it adopts in relation to such losses.

## **Article 4. Repatriation and Transfer**

1. Each Contracting Party shall permit in good faith all transfers related to an investment to be made correspondingly to the national law and agreements existing between the Contracting Parties freely and without delay into and out of its territory. Such transfers include:
  - a) Returns,
  - b) Proceeds from the sale or liquidation of all or any part of an investment,
  - c) Compensation pursuant to Article 3,

- d) Reimbursements and interest payments deriving from loans in connection with investments,
  - e) Salaries, wages and other remuneration received by the nationals of one Contracting Party who have obtained in the territory of the other Contracting Party the corresponding work permits relative to an investment,
  - f) Payments arising from an investment dispute,
  - g) Capital and additional amounts to maintain or increase the investment.
2. Transfers shall be made by host states in the convertible currency in which the investment has been made or in any convertible currency at the rate of exchange in force at the date of transfer unless otherwise agreed by the investor and the host Party.

## **Article 5. Subrogation**

1. If the investment of an investor of one Contracting Party is insured against non-commercial risks under a system established by law, any subrogation of the insurer which stems from the terms of the insurance agreement shall be recognised by the other Contracting Party.
2. The insurer shall not be entitled to exercise any rights other than the rights which the investor would have been entitled to exercise.
3. Disputes between a Contracting Party and an insurer shall be settled in accordance with the provisions of Article 7 of this Agreement.

## **Article 6. Derogation**

This Agreement shall not derogate from:

- a) Laws and regulations, administrative practices or procedures, or administrative, or adjudicatory decisions of either Contracting Party,
- b) International legal obligations, or
- c) Obligations assumed by either Contracting Party, including those contained in an investment agreement or an investment authorization,

That exist at present or established hereafter and that entitle investments or associated activities to treatment more favourable than that accorded by this Agreement in like situation

## **Article 7. Disputes between One Contracting Party and Investor of the other Contracting Party**

1. For the purpose of solving disputes concerning the investments between a hosting Contracting Party and an investor of the other Contracting Party, consultations will be held between the Contracting Parties concerned with a view to solving the case, as far as possible, amicably.
2. If these consultations do not result in a solution within six months from the date of request for settlement, the investor may submit the dispute, at his choice, for settlement to:
  - a) The International Centre for Settlement of Investment Disputes (ICSID) set up by the "Convention on Settlement of Investment Disputes between States and Nationals of other States" (in case both Parties become signatories of this Convention);
  - b) An ad hoc court of arbitration laid down under the Arbitration Rules of Procedure of the United Nations Commission for International Trade Law (UNCITRAL);
  - c) The Court of Arbitration of the Paris International Chamber of Commerce;
  - d) The local Court
3. The arbitral tribunal shall decide the dispute in accordance with the provisions of this Agreement and the applicable rules and principles of International law. The arbitration awards shall be final and binding for all parties in dispute. Each Contracting Party commits itself to execute the award according to its national law.

4. The Contracting Party which is a party to the dispute shall, at no time whatsoever during the procedures involving investment disputes, assert as a defense its immunity or the fact that the investor has received compensation under an insurance contract covering the whole or part of the incurred damage or loss.

## **Article 8. Disputes between the Contracting Parties**

1. The Contracting Parties shall seek in good faith and a spirit of cooperation a rapid and equitable solution to any dispute between them concerning the interpretation or application of this Agreement. In this regard, the Contracting Parties agree to engage in direct and meaningful negotiations to arrive at such solutions. If the Contracting Parties cannot reach an agreement within six months after the beginning of dispute between themselves through the foregoing procedure, the dispute may be submitted, upon the request of either Contracting Party, to an arbitral tribunal of three members.

2. Within two months of receipt of a request, each Contracting Party shall appoint an arbitrator. The two arbitrators shall select a third arbitrator as Chairman, who is a national of a third State. In the event either Contracting Party fails to appoint an arbitrator within the specified time, the other Contracting Party may request the President of the International Court of Justice to make the appointment.

3. If both arbitrators cannot reach an agreement about the choice of the Chairman within two months after their appointment, the Chairman shall be appointed upon the request of either Contracting Party by the President of the International Court of Justice.

4. If in the cases specified under paragraphs (2) and (3) of this Article, the President of the International Court of Justice is prevented from carrying out the said function or if he is a national of either Contracting Party, the appointment shall be made by the Vice-President, and if the Vice-President is prevented from carrying out the said function or if he is a national of either Contracting Party, the appointment shall be made the most senior judge of the Court who is not a national of either Party.

5. The tribunal shall have three months from the date of the selection of the Chairman to agree upon rules of procedure consistent with the other provision of this Agreement. In the absence of such agreement, the tribunal shall request the President of the International Court of Justice to designate rules of procedure, taking into account generally recognised rules of international arbitral procedure.

6. Subject to other provisions made by the Contracting Parties the tribunal shall determine its procedure. The arbitral tribunal shall reach its decisions, which shall be final and binding, by a majority of votes.

7. Expenses incurred by the Chairman, the other arbitrators, and other costs of the proceedings shall be paid for equally by the Contracting Parties. The tribunal may, however, at its discretion, decide that a higher proportion of the costs be paid by one of the Contracting Parties.

## **Article 9. Entry Into Force, Duration and Termination**

1. This Agreement shall enter into force on the date, and from that date only, on which the exchange of instruments of ratification has been completed. It shall remain in force for a period of ten years and shall continue to be in force unless terminated in accordance with paragraph 2 of this Article. It shall apply to investments existing at the time of entry into force as well as to investments made or acquired thereafter. However, the Agreement shall not apply to disputes that have arisen before its entry into force.

2. Either Contracting Party may, by giving one year written notice to the other Contracting Party, terminate this Agreement at the end of the initial ten year period or at any time thereafter.

3. This Agreement may be amended by written note between the Contracting Parties. Any amendment shall enter into force when each Party has notified the other that it has completed all internal requirements for entry into force of such amendment.

4. With respect to investments made or acquired prior to the date of termination of this Agreement and to which this Agreement otherwise applies, the provisions of all of the other Articles of this Agreement shall thereafter continue to be effective for a further period of ten years from such date of termination.

## **Article 10. Relations between Governments**

This Agreement shall be in force irrespective of whether or not diplomatic or consular relations exist between the Contracting Parties.

In witness whereof, the undersigned, duly authorized thereto by their respective Governments, have signed this Agreement.

Done in duplicate at..... this.....day of .....1997 in Azerbaijani, Arabic and English languages, all texts being equally authentic. In case of divergence of interpretation the English text shall prevail.

For the Government of the Republic of Lebanon

For the Government of the Republic of Azerbaijan